

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

637P0386

## SENATE BILL NO. 105

Introduced by: Senator Heidepriem and Representative Thompson

1 FOR AN ACT ENTITLED, An Act to provide state comity for the orders and judgments of  
2 tribal courts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-1-25 be repealed.

5 ~~1-1-25. No order or judgment of a tribal court in the State of South Dakota may be~~  
6 ~~recognized as a matter of comity in the state courts of South Dakota, except under the following~~  
7 ~~terms and conditions:~~

8 ~~(1) Before a state court may consider recognizing a tribal court order or judgment the~~  
9 ~~party seeking recognition shall establish by clear and convincing evidence that:~~

10 ~~(a) The tribal court had jurisdiction over both the subject matter and the parties;~~

11 ~~(b) The order or judgment was not fraudulently obtained;~~

12 ~~(c) The order or judgment was obtained by a process that assures the requisites of~~  
13 ~~an impartial administration of justice including but not limited to due notice~~  
14 ~~and a hearing;~~

15 ~~(d) The order or judgment complies with the laws, ordinances and regulations of~~



1                   ~~the jurisdiction from which it was obtained; and~~

2                   ~~\_\_\_\_\_ (c) The order or judgment does not contravene the public policy of the State of~~  
3                   ~~South Dakota.~~

4                   ~~(2) If a court is satisfied that all of the foregoing conditions exist, the court may~~  
5                   ~~recognize the tribal court order or judgment in any of the following circumstances:~~

6                   ~~\_\_\_\_\_ (a) In any child custody or domestic relations case; or~~

7                   ~~\_\_\_\_\_ (b) In any case in which the jurisdiction issuing the order or judgment also grants~~  
8                   ~~comity to orders and judgments of the South Dakota courts; or~~

9                   ~~\_\_\_\_\_ (c) In other cases if exceptional circumstances warrant it; or~~

10                  ~~\_\_\_\_\_ (d) Any order required or authorized to be recognized pursuant to 25 U.S.C.,~~  
11                  ~~§ 1911(d) or 25 U.S.C., § 1919.~~